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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,984	01/16/2004	David R. Schiff	PHAR-Z007	8316
7590 12/27/2005 Douglas J. Hura, Esquire DENTSPLY INTERNATIONAL INC. 570 West College Avenue York, PA 17405			EXAMINER SCHELL, LAURA C	
			ART UNIT 3767	PAPER NUMBER

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/759,984

Applicant(s)

SCHIFF ET AL.

Examiner

Laura C. Schell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3-6-04
3-11-04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

The disclosure is objected to because of the following informalities: Applicant has not mentioned continuing data and claim to provisional application in the first sentence of the specification. Appropriate correction is required.

Information Disclosure Statement

The information disclosure statement filed 08/06/2004 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Reiter (US Patent No. 2,221,739).

In reference to claim 1, Reiter discloses a hand-held device for dispensing a liquid material comprising: a housing containing the material to be dispensed (2) and having a dispensing nozzle (34) and a resetable ratchet (Fig. 3, 42) operatively connected to a biased piston (39); said ratchet mechanism including a release lever

(44) normally preventing movement of said piston until released (page 3, column 2, lines 4-22), wherein when said lever is released, said piston is biased toward said dispensing nozzle, such that an amount of the material is urged to flow toward said nozzle (page 3, column 1, lines 16-23 and 46-54); said housing being configured to be pen-like (page 1, column 1, lines 19-23 and page 3, column 2, lines 39-43).

In reference to claims 2-4, Reiter discloses that the housing is configured to receive an ampoule (12) containing the material to be dispensed (page 2, column 1, lines 8-17), as well as a plurality of ratchet teeth (42) operatively interacting with said lever (page 3, column 2, lines 23-29). Reiter further discloses that the lever is pivotally mounted and is biased such that it is normally in physical contact with at least one of said plurality of ratchet teeth until said lever is manually pivoted out of physical contact (page 3, first column, line 63 through line 22 of second column on page 3).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents all disclose hand-held, pen-like devices with levers that cooperate with a ratcheted and biased piston to dispense a liquid material: US Patent No. 98,478 to Eccleston, US Patent No. 2,413,303 to Folkman, and US Patent No. 4,820,287 to Leonard.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Schell whose telephone number is (571) 272-7881. The examiner can normally be reached on Monday-Friday 8am-4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LCS

A handwritten signature in black ink that reads "Kevin C. Sirmons". The signature is written in a cursive style with a large initial 'K' and a distinct 'S'.